REMARKS

The Claims

Claims 1-7, 9, 11, 13-18 and 24-42 have been withdrawn from consideration as being directed to a non-elected invention; Claims 8, 10, 12, 19-23, 43-49 and 52-54 are currently under examination and Claims 50, 51 and 55 have been allowed.

In the advisory action dated June 3, 2004, the Examiner declined to enter the claim amendments in the after final response of October 14, 2003 as said amendments allegedly would require further consideration and/or search.

Applicants hereby cancel Claims 1-55 without prejudice or disclaimer and reserve the right to pursue corresponding subject matter in continuation and divisional applications.

New claims 56-85 have been added. The new claims do not introduce new matter or raise issues requiring further consideration and/or search. Support for certain claim terms are as follows:

Support for "stimulating T-cell proliferation and/or activation, or binding to CRP1" is found at p. 43, lines 19-22 of the specification.

Support for "at least about 95% identical" is found at p. 26, line 32 to p. 27, line2 and p. 47, lines 23-34 of the specification.

Support for "a carboxy terminus at residue 302" is found at Figure 12 of the specification.

Support for the hybridization conditions set forth in Claim 81 is found at p. 25, lines 18-33 of the specification.

Support for "GenBank Accession No. AB014553" is found at p.77, lines 13-16 of the specification.

Entry of the amendments and new claims is respectfully requested.

Rejection under 35 U.S.C. 112

Claims 8, 10, 12, 19-23, 43-49 and 52-54 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for recitation of the terms "B7RP1", "at least one activity characteristic of B7RP1", and "high stringency conditions".

Without acquiescing to the rejections and solely to advance prosecution, Applicants have cancelled the rejected claims and added new claims which more clearly and distinctly claim the invention and are believed to render the rejections moot.

Claims 8, 10, 12, 19-23, 45-47 and 53-54 are rejected under 35 U.S.C. 112, first paragraph, as allegedly containing subject matter which was not described in the specification in a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the invention. The Examiner discussed certain terms used in the claims in relation to this rejection.

A) "Variants"

The Examiner has rejected certain claims that "recite a genus of polypeptides but do not require that the instant polypeptides share any testable functional activity, a feature deemed essential to the instant invention." Applicants respectfully traverse the rejection for the reasons set forth in the amendment and response of April 30, 2003. Without acquiescing to the rejection, Applicants have added new claims which recite polypeptides that are "at least about 95 identical" and "stimulate T-cell proliferation and/or activation, or binding to CRP1". Applicants request that the rejection be withdrawn.

B) "Fragments comprising"

The Examiner has rejected certain claims which recite fragments comprising additional amino acid residues of undisclosed identity and number, arguing that the specification does not adequately describe such fragments allegedly because additional flanking sequences encompassed by the word "comprising" are not identified in the specification. Without acquiescing to the rejection and solely to advance prosecution, Applicants added new claims which recite fragments of polypeptides having SEQ ID NO:7,

SEQ ID NO:13 or SEQ ID NO:17. Such claims, however, do not preclude the addition of other amino acid residues (such as an Fc molecule) to the claimed fragments (see for example Claims 63 and 64).

C) "a carboxy terminus at about residue 302".

Without acquiescing to the rejection, Applicants have added new claims which recite a carboxy terminus "at residue 302". Applicants request that the rejection be withdrawn.

Claims 8, 10, 12, 19-23, 45-47 and 53-54 are rejected under 35 U.S.C. 112, first paragraph, as allegedly containing subject matter not enabled by the specification. The Examiner discussed certain terms used in the claims in relation to this rejection.

A) "Variant polypeptides"

The Examiner alleges that undue experimentation would be required to determine which "variant" sequences would still result in polypeptides having the same function as human and mouse B7RP1 polypeptides disclosed in the specification. Without acquiescing to the rejection, Applicants have added new claims which recite polypeptides that are "at least about 95 identical" and "stimulate T-cell proliferation and/or activation, or binding to CRP1". Applicants request that the rejection be withdrawn.

B) "Fragments comprising"

The Examiner has rejected certain claims which recite fragments comprising additional amino acid residues of undisclosed identity and number, arguing that the specification does not provide sufficient guidance with respect to what additional flanking sequences could be added. Without acquiescing to the rejection and solely to advance prosecution, Applicants have added new claims which recite fragments of polypeptides having SEQ ID NO:7, SEQ ID NO:13 or SEQ ID NO:17. Such claims, however, do not preclude the addition of other amino acid residues (such as an Fc molecule) to the claimed fragments (see for example Claims 63 and 64) which is fully enabled by the specification.

Rejections under 35 U.S.C. 102(a)

Claims 8, 10, 12, 43, 45-47 and 52-54 are rejected under 35 U.S.C. 102(a) as being anticipated by Ishikawa et al. (DNA Res. 5, 169-176 (1998) as evidenced by GenBank Accession No. AB014553, released on February 6, 1999. The Examiner alleges that the sequence data corresponding to GenBank

Accession No. AB014553 were released by the DNA Data Bank of Japan (DDBJ) on July 15, 1998, therefore placing the sequence in the public domain before the priority date of the application.

For the convenience of the Examiner, a comparison of the sequence corresponding to GenBank Accession No. AB014553 and SEQ ID NO:17 of the present application is shown below:

SEQ ID NO:17		[1-299]-Gly-His-Val
AB014553	42 amino acids	[1-299]-Gly-Glu-Phe-214 amino acids

GenBank Accession No. AB104553 discloses a predicted polypeptide of about 555 amino acids which is substantially larger than the 302 amino acid polypeptide of SEQ ID NO:17, differs in sequence from SEQ ID NO:17 and has completely different amino and carboxy terminal ends. There is no evidence that the predicted polypeptide in AB104553 is actually produced by expression of the nucleotide sequence disclosed therein. AB014553 and SEQ ID NO:17 are identical over 299 amino acids (designated [1-299] above).

Without acquiescing to the rejection and solely to advance prosecution, Applicants have cancelled Claims 8, 10, 12, 43, 45-47 and 52-54 and added certain new claims which recite a polypeptide "that does not have the amino acid sequence of GenBank Accession No. AB014553", thereby rendering the rejection moot.

Rejection under 35 U.S.C. 103

The Examiner has rejected Claims 19-23 under 35 U.S.C. 103(a) as being unpatentable over Ishikawa in view of Linsley. Each of those claims includes a polypeptide of Claims 8, 10 or 12 which the Examiner has rejected in view of Ishikawa. The Examiner cited Linsley as allegedly showing certain additional elements of the rejected claims.

Without acquiescing to the rejection, Applicants have cancelled Claims 19-23 and added certain new claims which recite a polypeptide "that does not have the amino acid sequence of GenBank Accession No. AB014553". Applicants maintain that all new claims are patentable over Ishikawa and therefore are patentable over Ishikawa in view of Linsley.

CONCLUSION

Claims 56-85 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,

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